

A3  
cont

second external, flexible element and said internal support member thereby giving independent support to said left and right ventricles.

50. The device of claim 49, wherein said first and second external, flexible elements further comprise strap members.

51. The device of claim 49, further comprising at least one tensile member configured to extend through the left ventricle to provide additional support thereto.

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#### REMARKS

In response to the restriction mailed January 24, 2002, Applicants elect Species I directed to Figs. 1-3. Claims 1, 4, 5, 37 and 49-51 read on the elected species.

Early and favorable examination on the merits is respectfully requested upon receipt and entry of the preliminary amendment.

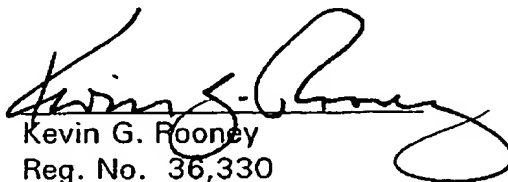
Attached hereto is a marked-up version of the changes made to the claims by the current amendment.

Applicants do not believe that any fees are due in connection with this response other than the excess claim fee. However, if such petition is due or any

fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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**MARKED-UP VERSION TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

Claims 1-4 and 6-8 have been amended as follows:

1. (Amended) A device for supporting a heart having left and right ventricles separated by an interventricular septum, the device comprising:

[an] a first external, flexible [mesh] element configured to be placed around at least a portion of the heart of a patient, and

an internal support member configured to be received within one of the left and right ventricles and against the interventricular septum, said internal support member being coupled to said first external, flexible [mesh] element.

2. (Amended) The device of claim 1, wherein said first external, flexible [mesh] element further comprises a mesh comprised of intersecting fabric elements.

3. (Amended) The device of claim 1, wherein said external, flexible [mesh] element further comprises a mesh comprised of intersecting polymeric elements.

4. (Amended) The device of claim 1, wherein said internal support member further comprises a flexible strap connected with said first external, flexible [mesh] element.

6. (Amended) The device of claim 1 further comprising multiple internal support members, each internal support member being formed as a flexible strap coupled to said first external, flexible [mesh] element.

7. (Amended) The device of claim 1, wherein said first external, flexible [mesh] element is configured to overly only a portion of one of said ventricles and said internal support member includes a first portion configured to lie against the interventricular septum in the other of said ventricles and a second portion configured to extend through said one ventricle and connect with said first external, flexible [mesh] element.

8. (Amended) A device for supporting a heart having left and right ventricles separated by an interventricular septum, the device comprising:

an external, flexible mesh element to be placed around at least a portion of the heart of a patient,

an internal support member configured to be received within one of the left and right ventricles and against the interventricular septum, said internal support member being coupled to said external, flexible mesh element [member],

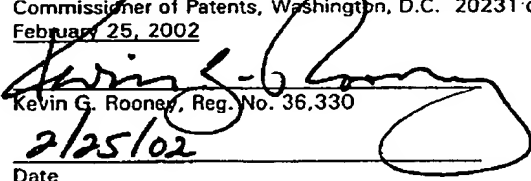
wherein said external, flexible mesh element is configured to overly only a portion of one of said ventricles and said internal support member includes a first portion configured to lie against the interventricular septum in the other of said

ventricles and a second portion configured to extend through said one ventricle and connect with said external, flexible mesh element.

Claims 49-51 have been added.

## PATENT

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231 on February 25, 2002

  
Kevin G. Rooney, Reg. No. 36,330

2/25/02  
Date

Applicants: Mark Ortiz et al.  
Serial No: 09/677,981  
Filing Date: October 3, 2000  
Art Unit: 3762  
Examiner: Scott M. Getzow  
Title: IMPLANTABLE HEART ASSIST DEVICES AND METHODS  
Atty Docket: SPEN-08

Cincinnati, Ohio 45202

February 25, 2002

Assistant Commissioner for Patents  
Washington, D.C. 20231

## AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.
2.   X   Small Entity status is claimed.  
       Other than a Small Entity.
3. The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		LARGE ENTITY	
Claims Remaining After Amendment		Highest No. Previously Paid For		Extra	Present Rate	Fee	Present Rate	Fee
TOTAL	51	MINUS	48	= 3	x \$9	\$0	x \$18	\$27
INDEP.	11	MINUS	11	= 0	x \$42	\$0	x \$84	\$0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$140	\$0	+ \$280	\$0
TOTALS					TOTAL FEE	\$	TOTAL FEE	\$27

- ☆ If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ☆☆ If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- ☆☆☆ If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid for" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

\_\_\_ No additional fee for claims is required.

4. Attached is a check in the sum of \$\_\_\_.

  X   Please charge my Deposit Account No. 23-3000 in the amount of \$27.00. A duplicate copy of this sheet is attached.

5. The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

Complete (a) or (b) as applicable.

- (a) \_\_\_ Applicant petitions for an extension of time under 37 CFR 1.136 for the total number of months checked below:

	Extension (months)	Fee for other than small entity	Fee for small entity
___	one month	\$ 110.00	\$ 55.00
___	two months	\$ 400.00	\$200.00
___	three months	\$ 920.00	\$460.00
___	four months	\$1,440.00	\$720.00

\_\_\_ Attached is a check in the amount of \$\_\_\_ for the three month extension fee as required by 37 C.F.R. § 1.17(c)

If an additional extension of time is required, please consider this a petition therefor.

(Check and complete the next item, if applicable)

\_\_\_ An extension for \_\_\_ months has already been secured and the fee paid thereof of \$\_\_\_ is deducted from the total fee due for the total months of extension now requested. Extension fee due with this request \$\_\_\_.

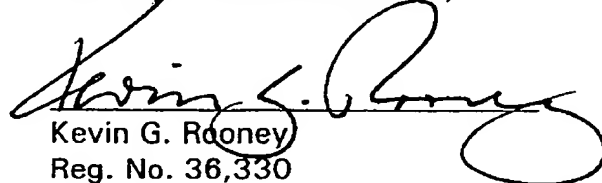
OR

(b) X Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

XX If any additional fee for claims or extension of time is required, charge Account No. 23-3000. A duplicate of this transmittal is attached.

Respectfully submitted,

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